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119), and digital audio recording devices and media (17 U.S.C. chapter 10). Those provisions of subpart E generally regulating the conduct of proceedings shall apply to royalty fee distribution proceedings, unless they are inconsistent with the specific provisions of this subpart.

§ 251.71 Commencement of proceedings.

(a) *Cable*. In the case of royalty fees collected under the cable compulsory license (17 U.S.C. 111), any person claiming to be entitled to such fees must file a claim with the Copyright Office during the month of July each year in accordance with the requirements of this subchapter.

(b) *Satellite carriers*. In the case of royalty fees collected under the satellite carrier compulsory license (17 U.S.C. 119), any person claiming to be entitled to such fees must file a claim with the Copyright Office during the month of July each year in accordance with the requirements of this subchapter.

(c) *Digital audio recording devices and media*. In the case of royalty payments for the importation and distribution in the United States, or the manufacture and distribution in the United States, of any digital recording device or medium, any person claiming to be entitled to such payments must file a claim with the Copyright Office during the month of January or February each year in accordance with the requirements of this subchapter.

§ 251.72 Declaration of controversy: Initiation of arbitration proceeding.

If the Librarian determines that a controversy exists among the claimants to either cable, satellite carrier, or digital audio recording devices and media royalties, the Librarian shall publish in the FEDERAL REGISTER a declaration of controversy along with a notice of initiation of an arbitration proceeding. Such notice shall, to the extent feasible, describe the nature, general structure and schedule of the proceeding.

[59 FR 23981, May 9, 1994. Redesignated at 59 FR 63042, Dec. 7, 1994]

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§ 251.73 Deduction of costs of distribution proceedings.

The Librarian of Congress and the Register of Copyrights may, before any distributions of royalty fees are made, deduct the reasonable costs incurred by the Library of Congress and the Copyright Office as a result of the distribution proceeding, from the relevant royalty pool.

[59 FR 23981, May 9, 1994. Redesignated at 59 FR 63042, Dec. 7, 1994]

PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES

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AUTHORITY: 17 U.S.C. 111(d)(4), 801, 803.

SOURCE: 59 FR 23992, May 9, 1994, unless otherwise noted.

§ 252.1 Scope.

This part prescribes procedures under 17 U.S.C. 111(d)(4)(A), whereby parties claiming to be entitled to cable compulsory license royalty fees shall file claims with the Copyright Office.

[59 FR 23992, May 9, 1994, as amended at 60 FR 8198, Feb. 13, 1995]

§ 252.2 Time of filing.

During the month of July each year, any party claiming to be entitled to cable compulsory license royalty fees for secondary transmissions of one or more of its works during the preceding calendar year shall file a claim to such fees with the Copyright Office. No royalty fees shall be distributed to a party for secondary transmissions during the specified period unless such party has timely filed a claim to such fees. Claimants may file claims jointly or as a single claim.

§ 252.3 Content of Claims.

(a) *Single claim*. A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a cable system shall include the following information:

(1) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(2) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a cable system of such work or works establishing a basis for the claim.

(3) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person or entity filing the single claim.

(4) An original signature of the copyright owner or of a duly authorized representative of the copyright owner.

(b) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a cable system shall include the following information:

(1) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(2) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(1) of this section.

(3) A general statement of the nature of the copyright owners' works and identification of at least one secondary transmission of one of the copyright owners' works by a cable system establishing a basis for the joint claim and the identification of the copyright owner of each work so identified.

(4) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person filing the joint claim.

(5) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners.

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright

Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

[66 FR 29703, June 1, 2001]

§ 252.4 Compliance with statutory dates.

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are hand delivered, either by the claimant, the claimant's agent, or a private delivery carrier, to: Office of the Register of Copyrights, Room 403, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC 20540, during normal business hours during the month of July; or

(2) They are addressed to: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024, and are deposited with sufficient postage with the United States Postal Service and bear a July U.S. postmark.

(b) Notwithstanding subsection (a), in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in August, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(c) Claims dated only with a business meter that are received after July 31, will not be accepted as having been timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, a claimant may nonetheless prove that the claim was properly filed if it was sent by certified mail return receipt requested, and the claimant can provide a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (b) of this section applies. No affidavit of an officer or employee

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of the claimant, or of a U.S. postal worker will be accepted in lieu of the receipt.

[59 FR 23992, May 9, 1994, as amended at 59 FR 63042, Dec. 7, 1994; 61 FR 63718, Dec. 2, 1996; 63 FR 30635, June 5, 1998; 65 FR 39820, June 28, 2000]

§ 252.5 Copies of claims.

A claimant shall, for each claim submitted to the Copyright Office, file an original and two copies of the claim to cable royalty fees.

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

253.1 General.

253.2 Definition of public broadcasting entity.

253.3 [Reserved]

253.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d).

253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

253.6 Performance of musical compositions by other public broadcasting entities.

253.7 Recording rights, rates and terms.

253.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

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253.10 Cost of living adjustment.

253.11 Notice of restrictions on use of reproductions of transmission programs.

AUTHORITY: 17 U.S.C. 118, 801(b)(1) and 803.

SOURCE: 57 FR 60954, Dec. 22, 1992, unless otherwise noted. Redesignated at 59 FR 23993, May 9, 1994.

§ 253.1 General.

This part 253 establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic and sculptural works during a period beginning on January 1, 2003, and ending on December 31, 2007. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the

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activities with respect to such works set forth in 17 U.S.C. 118(d).

[57 FR 60954, Dec. 22, 1992. Redesignated at 59 FR 23993, May 9, 1994, as amended at 63 FR 2144, Jan 14, 1998; 67 FR 77171, Dec. 17, 2002]

§ 253.2 Definition of public broadcasting entity.

As used in this part, the term *public broadcasting entity* means a non-commercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(d)(2).

§ 253.3 [Reserved]

§ 253.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d).

The following schedule of rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities engaged in activities set forth in 17 U.S.C. 118(d) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by §§ 253.5 and 253.6, and except for compositions which are the subject of voluntary license agreements.

- (a) Determination of royalty rate. (1) For performance of such work in a feature presentation of PBS:
2003–2007 \$224.22
- (2) For performance of such a work as background or theme music in a PBS program:
2003–2007 \$56.81
- (3) For performance of such a work in a feature presentation of a station of PBS:
2003–2007 \$19.16
- (4) For performance of such a work as background or theme music in a program of a station of PBS:
2003–2007 \$4.04
- (5) For the performance of such a work in a feature presentation of NPR:
2003–2007 \$22.73
- (6) For the performance of such a work as background or theme music in an NPR program:
2003–2007 \$5.51